

A Few USEPA Failures

It is beyond dispute that large corporations expend a great deal of time, effort, and money to influence, induce, control, and effectuate those rules and regulations which impact any and all aspects of their business activities¹. Based on my thirty-five years of experience in the environmental field, which includes six years employment in an environmental regulatory agency, it is clear that the use of disingenuous technical argument, political pressure, monetary inducement, intimidation, obfuscation, and deception are all tools used to mold the environmental limits imposed on industrial operations.

Controlling the regulatory process is one side of the coin. The other side of that coin is to hide behind concurrence with environmental regulatory agency positions if and when things go wrong. In many environmental matters, that tactic mostly relates to various regulatory initiatives undertaken by the USEPA involving air pollution, water pollution, and waste disposal activities.

Attempting to shield industrial activities with the good graces of the omnipotent USEPA creates certain problems. An attentive analysis of the historical record related to the activities of that agency reveals numerous actions that are best described as despicable. At least one agency employee has pled guilty to accepting a bribe². In league with the American Chemical Council, the USEPA once formulated a project to use children in Duval County, Florida to measure the effects of pesticides on infants and toddlers³. In 1982, one of the principal functionaries in the agency went to jail for lying to the U.S. Congress⁴. On a more mundane note, the agency once maintained at least seventeen separate databases of chemical parameters (by definition those are supposed to be

¹ For a thorough documentation of the relationship between a large corporation and a federal regulatory agency, see The Killing of Karen Silkwood: The Story Behind the Kerr-McGee Plutonium Case, Richard Rashke, Cornell University Press, 2000.

² "EPA Employee Pleads Guilty to Bribery, Agrees to be Fired", The Beacon Journal, September 30, 2004.

³ "EPA Madness", Winston-Salem Journal, November 8, 2004.

⁴ "Former EPA Official Enters Federal Prison", New York Times, April 20, 1985.

constants) for use in USEPA and state regulatory agency health risk assessments. The problem was that the value of a given parameter reported in the seventeen databases varied by as much as a factor of ten billion⁵.

The implications of the truncated list of USEPA failures is noteworthy, but those implications pail in comparison to the multiple regulatory agency failures related to ongoing developments in Libby, Montana. What transpired in Libby evolved from alleged criminal acts perpetrated by employees of a major corporation and possibly by bureaucrats in the USEPA (seven W.R. Grace employees have been criminally indicted⁶; USEPA employees have not been charged with a crime in the matter).

To encapsulate a lengthy and compelling story: by at least 1980, the USEPA recognized that members of the general public in Libby (and in many other places across the U.S.) were at risk of exposure to asbestos, an integral component of an ore mined and processed at a W. R. Grace facility located near that Montana community⁷. In spite of that knowledge, the USEPA assigned a "lower priority" to the problem⁸, and essentially ignored the situation until reports of health problems in Libby surfaced in the press in 1999⁹. The decision to ignore the toxic chemical exposure problem in Libby and elsewhere was apparently made on the basis of political considerations¹⁰. A very large number of people have died or will die as a result of that example of negligence and incompetence on the part of the USEPA¹¹.

Obviously, the USEPA is as fallible as other human institutions. The protection of public health actually isn't one of the agency's primary strengths.

⁵ "ACC Calls for EPA to Correct Databases", Chemical and Engineering Journal, August 9, 2004.

⁶ "W.R. Grace and Executives, Charged with Endangering Libby, Montana Community, Fraud, and Obstruction of Justice", EPA Newsroom, February 7, 2005.

⁷ USEPA Memorandum: "Review of Priority Review Level-1 Report-Asbestos Contaminated Vermiculite", from Joseph J. Merenda to Warren A. Muir, et al., June 5, 1980. See also "Priority Review Level 1-Asbestos Contaminated Vermiculite", Office of Pesticides and Toxic Substances, USEPA, June 1980.

⁸ Letter: from Don R. Clay, Acting Assistant Administrator for Pesticides and Toxic Substances, USEPA to James A. Courter, U.S. House of Representatives, June 8, 1983.

⁹ "EPA's Cleanup of Asbestos in Libby, Montana, and Related Actions to Address Asbestos-Contaminated Materials", U.S. General Accounting Office, April 2003.

¹⁰ An Air That Kills, Andrew Schneider and David McCumber, G.P. Putman's Sons, 2004, page 193.

¹¹ *Ibid*, page 190.